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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 KRIS SAEGER,

11 Plaintiff,

12 v.

13 TAMBRA ZANDER, *et al.*,

14 Defendants.  
15

Case No. C08-5314BHS

ORDER GRANTING  
PLAINTIFF'S MOTION TO  
AMEND COMPLAINT

16 This matter comes before the court on plaintiff's request to amend his complaint to add a claim of  
17 retaliation (Dkt. # 37). The Court, having reviewed the request and the balance of the record, does hereby  
18 ORDER:

19 (1) On October 31, 2008, Plaintiff filed a pleading requesting to add a claim of retaliation to the  
20 matter. The matter was served by the court in May 2008, however, no Answer or affirmative pleading  
21 has been filed by Defendants (other than the motion to dismiss filed by Defendant Lopez). Four factors  
22 are relevant to whether a motion for leave to amend pleadings should be denied: undue delay, bad faith or  
23 dilatory motive, futility of amendment, and prejudice to the opposing party. United States v. Webb, 655 F.2d  
24 977, 980 (9th Cir. 1981). Arguably it would be late to add such a claim to this case, but because the  
25 remaining Defendants have not Answered the Complaint the undersigned finds not prejudice in  
26 allowing Plaintiff to amend his Complaint at this time. Accordingly, Plaintiff's request to amend his  
27 complaint is **GRANTED**.

28 Plaintiff shall file an Amended Complaint with the court reflecting his request to add a claim of

1 retaliation by no later than December 12, 2008. The court notes that it is plaintiff's responsibility to file and  
2 properly serve an amended complaint to reflect this change. An Answer or other affirmative defenses to the  
3 Complaint should be filed in response to the Amended Complaint in a timely manner, otherwise Plaintiff  
4 may move for and entry of default against the defendants who have been properly served.

5 (2) The Clerk is directed to send copies of this Order to plaintiff.

6 DATED this 12th day of November, 2008.

7  
8 /s/ J. Kelley Arnold  
9 J. Kelley Arnold  
10 United States Magistrate Judge  
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